

## **REMARKS**

This paper is filed in response to the Office Action dated October 4, 2004. As this paper is filed on January 4, 2005, the paper is timely filed.

### **I. Status of Amendments**

Claims 34, 35, 38, and 55-66 were pending prior to this amendment. By this amendment, applicants amend claims 55 and 61 and add claim 67. Thus, claims 34, 35, 38 and 55-67 are pending. Because applicants previously paid fees for 6 independent and 47 total claims, applicants' amendments do not require a further fee to be paid.

### **II. Response to October 4 Office Action**

Claims 55 and 61 were objected to for informalities. Applicants have amended claims 55 and 61 to traverse the objections raised.

Claims 34, 35, 38, 55-58 and 60-66 are rejected under 35 U.S.C. 103 as allegedly unpatentable over Pascal (PCT Publ. No. WO 98/00210) in view of Giacalone, Jr. (U.S. Patent No. 5,758,875). Claim 59 is rejected under 35 U.S.C. 103 as allegedly unpatentable over Pascal in view of Giacalone, Jr. further in view of Okada (U.S. Patent No. 4,508,345). Applicants have the following comments.

Claim 34 recites a method of tournament gaming. The method includes providing a plurality of gaming devices adapted for tournament play and configured to play at least one game of chance at variable rates of play and initiating a tournament game of chance on at least one gaming device of the plurality of gaming devices. The method further includes playing the tournament game of chance at a first permitted rate of play and changing the rate of play to a second permitted rate of play in response to at least one selected game outcome of the at least one game of chance.

In their June 10 Amendment, applicants argued that that Pascal failed to disclose, teach or suggest "playing the tournament game of chance at a first permitted rate of play and changing the rate of play to a second permitted rate of play in response to at least one selected

game outcome of the at least one game of chance.” This point is assented to at page 3, lines 2-5, of the October 4 Office Action.

The Office Action continues on, however, to suggest that Giacalone Jr. provides the missing disclosure, teaching or suggestion. Specifically, the following sections of Giacalone Jr. are cited in support: Abstract; Col. 3:13-46; and Col. 4:7-24. Applicants respectfully disagree.

Giacalone Jr. observes “that where a player desires to play at a rate faster than the normal play rate, and *his accelerated physical interaction*, in inputting his money and making his selection or pulling a lever, has no effect on the play rate of the game, a degree of frustration sets in.” Col. 2:1-5 (emphasis added). Giacalone Jr. proposes “*the frequency of player input [be] detected and the game play time [be] changed to make it proportional to such input.*” Col. 2:20-22 (emphasis added); see also Col. 1:9-11 (“controlling the play rate of an electronic game *as a function of the speed of player interaction* with the machine running the game.”) (emphasis added). Specifically, Giacalone Jr. states that the time between an “end of game” (not an outcome, let alone a selected outcome, but merely the end of any game with any outcome) signal and a “start” signal will be determined, and compared to a “rate control signal” and (col. 3:26-32):

[i]f comparator 28 senses a positive comparison, indicating that the player has input a start signal at a time earlier than the present nominal time following the generation of the end of game signal, a play rate adjust signal will be generated at 32 which will cause rate controller 34 to generate a rate control signal tending to increase the rate of play of the game.

Thus, Giacalone Jr. states that *a change in player input* causes a change in the rate of play of the game.

These statements from Giacalone Jr. show that Giacalone Jr. does not provide the missing disclosure, teaching or suggestion, even if one assumes for the moment that the combination of Pascal and Giacalone Jr. is proper. Giacalone Jr. emphasizes that responsiveness to the player’s input is paramount, to avoid frustration and improve player excitement. Giacalone Jr. thus states that the changes in rate of play should come about in accordance with the variations in *the player’s input*. By contrast, claim 34 recites “changing the rate of play to a second permitted rate of play *in response to at least one selected game*

*outcome* [e.g., a winning outcome, see claim 67] of the at least one game of chance”, which would make the change insensitive to changes in the speed of the player’s input. As such, Giacalone Jr. would teach away from the recited limitation of claim 34. Additionally, Giacalone Jr. states that the change will occur in the *actual* rate of play, while claim 34 recites that the *permitted* rate of play is changed, with the actual rate of play thus being capable of variation up to the permitted rate of play. Given that Giacalone Jr. does not provide the missing disclosure, teaching or suggestion of Pascal, the combination does not disclose, teach or suggest each and every limitation of claim 34, and the rejection should be withdrawn.

Claims 35, 38, 55-58 and 60-67 depend from claim 34. Because the combination of Pascal and Giacalone, Jr. does not disclose, teach or suggest each and every limitation of the claimed subject matter of claim 34, as discussed above, claims 35, 38, 55-58 and 60-67 are allowable as they include all of the limitations of claim 34 by virtue of their dependency from claim 34. Consequently, these claims are also allowable.

As to the section 103 rejection based on the combination of Pascal, Giacalone, Jr. and Okada, applicants note that, according to the preceding argument, the combination of Pascal and Giacalone Jr. does not teach, disclose or suggest each and every limitation of claim 34 from which claim 59 depends. Applicants further submit that Okada does not provide the disclosure, teaching or suggestion missing from Pascal and Giacalone, Jr., nor does the Office Action suggest that Okada does provide this disclosure, teaching or suggestion. Consequently, the combination of Pascal, Giacalone Jr. and Okada does not show each and every limitation of the claimed subject matter of claim 59, and the claim is allowable.

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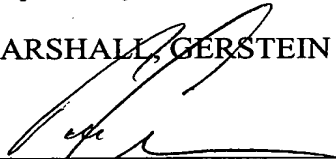
In view of the foregoing, it is respectfully submitted that the above application is in condition for allowance, and reconsideration is respectfully requested. If there is any matter that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN

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By:



Paul C. Craane  
Registration No. 38,851  
6300 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606-6357  
(312) 474-6300